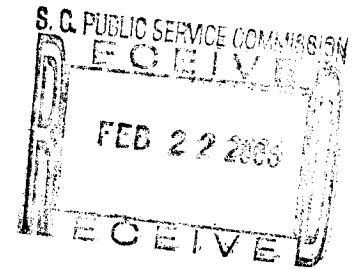




February 16, 2006



Mrs. Beatrice E. Weaver
1253 Harllees Bridge Road
Dillon, SC 29436

RE: Docket No. 2004-219-E

Dear Mrs. Weaver:

Your February 11, 2006 letter to Chad Campbell at the Office of Regulatory Staff contained copies of two letters from you to me dated January 16 and January 19, 2006. Please be advised that I have never received those letters, and was unaware of them until reviewing your letter to Mr. Campbell. Let me respond to these letters individually.

On January 16, 2006 you asked that I provide you with information concerning the \$5,314.34 outstanding debt for unpaid electric service bills at your house, and your obligation to pay this debt. Following is my response to questions #1-5. You asked me to provide:

1. A detailed list of the respective accounts comprising this alleged amount.
Answer: Account Number 116-331-1887
2. A break-down of said amount by each account name and number.
Answer: The entire amount is attributable to the above account
3. The amount allegedly owed by date, for each account.
Answer: \$5,314.34 was the outstanding balance on Account Number 116-331-1887 as of January 11, 2002.
4. The dates showing the duration of each account
Answer: Account Number 116-331-1887 was connected June 6, 1994 and disconnected December 21, 2001
5. Show all alleged interest on each account
Answer: There is no interest

The answers to your questions #6-10 are found in my letter to Mr. Daniel H. Shine, your attorney, dated April 28, 2004, copy attached. I would note further that the above debt was litigated before the Public Service Commission of South Carolina in Docket No. 2001-249-E. The Commission's final order in that case dated December 5, 2001 upheld the amount of the debt and PEC's right to disconnect service if the debt was not paid. An appeal of that ruling was dismissed in the Dillon County Court of Common Pleas on April 15, 2002 (Case #2002-CP-17-00090).

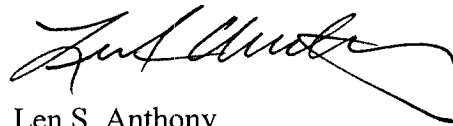
Your January 19, 2006 letter asks me to "Please state for the record, with specificity and particularity, exactly what conditions you claim have changed, in what

period of time, that caused you to formally withdraw the said unwarranted Petition to Terminate Service that was incorrectly filed in the first place.” The answer to this is contained in my letter to The Hon. Charles Terreni dated October 13, 2005, with copy to you. A copy of that letter is attached hereto.

In your January 16 and 19 letters you again ask me to file affidavits concerning my responses to your questions in the above two letters. As I stated in my February 10, 2006 letter to you, I believe that a more constructive process would be for you to identify those statements in my letters that you believe are inaccurate and provide me the documentation supporting your belief.

Finally, let me say that PEC has provided you with all of the above information in one form or another on numerous occasions over the past three and a half years. In addition to the letters attached hereto, I direct your attention particularly to letters from PEC dated August 22, 2002; October 16, 2002; June 29, 2004; July 20, 2004; August 26, 2004; September 2, 2004; September 16, 2004; September 30, 2004; August 4, 2005; December 6, 2005; and January 9, 2006.

Yours very truly,

A handwritten signature in black ink, appearing to read "Len S. Anthony", with a large, sweeping flourish at the end.

Len S. Anthony
Deputy General Counsel-Regulatory Affairs

Attachments

LSA:gac

cc: Mr. Charles Terreni (SCPSC)

231234



October 13, 2005

The Honorable Charles Terreni
Chief Clerk and Administrator
Public Service Commission of South Carolina
P. O. Drawer 11649
Columbia, South Carolina 29211

RE: Petition of Progress Energy Carolinas, Inc. to Terminate Service
Docket No. 2004-219-E

Dear Sirs:

On August 4, 2004, Progress Energy Carolinas, Inc. (PEC) filed the above-cited Petition to terminate electric service to the property of Mrs. Beatrice Weaver and/or Renaissance International, Inc. located at 1253 Harllees Bridge Road, Little Rock, South Carolina. PEC hereby requests to withdraw that Petition.

PEC's Petition was motivated by the multitude of problems PEC had been experiencing for several years up until that point in its customer/supplier relationship with Mrs. Weaver. The situation has improved dramatically in the intervening fourteen months. PEC has had few problems gaining access to the property to read meters since that time. During 2005 PEC has had to estimate only three readings, one in April, the other two in August and September after vegetation had grown to a point that meter readers were unable to safely enter the property through the rear gate, where PEC maintains a padlock. PEC wrote Mrs. Weaver a letter on August 3 requesting that she cut the vegetation, and apparently she did so, as meter readers were able to gain access to the property and read the meters on October 6. In short the problems that motivated PEC to file this Petition in August 2004 are no longer an issue. PEC appreciates the assistance of the South Carolina Office of Regulatory Staff (ORS) and the cooperation demonstrated by Mr. and Mrs. Weaver during this time, and is hopeful of maintaining continued amicable relations with this customer into the future.

The Commission issued an Order on October 5, 2005 setting a hearing on the above-referenced Petition for December 14, 2005. In light of its withdrawal of that Petition, PEC respectfully requests that the Commission cancel the hearing, which is no longer necessary.

Sincerely,

A handwritten signature in cursive script that reads 'Len S. Anthony'. Below the signature, the initials 'GAC' are written in a smaller, less legible script.

Len S. Anthony
Deputy General Counsel – Regulatory Affairs

LSA: mhm

cc: David Butler
Randy Watts (ORS)
April Sharpe (ORS)
Florence Belser (ORS)
Beatrice Weaver

228134

Progress Energy Service Company, LLC
P.O. Box 1551
Raleigh, NC 27602



Progress Energy

April 28, 2004

Mr. Daniel H. Shine
911 West Hampton Street
Dillon, South Carolina 29536

RE: Application for Service

Dear Dan:

I am responding to your April 14, 2004 letter concerning Beatrice E. Wallenstein's (a/k/a Mrs. Gary Weaver) request for electrical service to 1253 Harllees Bridge Road in Little Rock, South Carolina. I am returning the \$100.00 check from Be My Guest Wellness Retreat for deposit to establish electric service. Progress Energy Carolinas, Inc. (PEC) stands by its previous refusal to connect service to the main house at 1253 Harllees Bridge Road until the Weavers' \$5,314.34 in unpaid electric bills at this location is paid.

You state that for some years Mrs. Weaver has been caught in the middle of a dispute between Progress Energy and her husband Gary Weaver. This is an incorrect characterization. First, there is no dispute in the eyes of PEC or the South Carolina Public Service Commission or the courts, only a refusal by Mr. and Mrs. Weaver to pay back bills that they owe PEC. The Public Service Commission has ruled that the debt is owed to PEC. Secondly, this "dispute" is not simply between Gary Weaver and PEC, nor is Mrs. Weaver innocently caught in the middle. The fact is that Mr. *and* Mrs. Weaver, regardless of their present alleged living arrangements, are both inextricably tied to this debt, as you will see.

A review of pertinent public records indicates that a corporation named Renaissance International, Inc. owned by Mrs. Weaver bought the house in question in June 1994. The house is an 8,000 square foot plantation home on 9.4 acres of land. The purchase price of \$185,000 was paid in cash. In addition, the corporation bought a 206-acre tract of land on Harllees Bridge Road for \$135,000. Less than two years later the corporation, which by then was in forfeiture, sold the house and associated property to Mrs. Weaver for \$666,000. Mrs. Weaver secured a \$375,000 mortgage on the property. Our research shows that on December 31, 2003, the house and property were deeded to a living trust, of which Mrs. Weaver is the trustee/trustor.

South Carolina Public Service Commission rules pertinent to this case provide that the responsibility for a debt for unpaid electric bills is in effect shared by the members of the household who benefited from the service when and where the debt was incurred, and that in the

event that one of those members of the household subsequently attempts to establish service at the same location, the utility can refuse to connect service until the debt is paid. That concept is even more clear-cut when the only two members of the household are, as in this case, husband and wife.

The validity of both this interpretation and the rationale for this interpretation were directly addressed in the case of Haynsworth v. SCE&G, 488 F.Supp. 565 (USDC, SC, 1979). In this case electric service was in the husband's name, the couple separated, and the wife subsequently refused to pay the bill, claiming, just as Mrs. Weaver is now claiming, that the debt was the husband's responsibility as long as the account was in his name. The wife then applied for service in her own name at the same address. SCE&G refused to open an account in her name, relying on provision 4(b) of SCE&G's filed service regulations which reads: "Service will not be supplied by the Company to any applicant who is then indebted to the Company or who, at the time of application, is a member of the household of a former customer who is indebted to the Company, except upon payment of such indebtedness." Note the similarity to the relevant provision 2(c) in PEC's filed Service Regulations, which reads: "Company may refuse to furnish electric service to any Applicant, or Customer, who at the time is indebted to Company for electric service previously supplied to such Applicant or Customer, or any other member of his household, or business, in any area served by Company." (In the case of Clarke v. General Telephone Company, 232 S.E.2d 26 (1977), the South Carolina Supreme Court held that a utility's service regulations have the force and effect of law.)

The court upheld the service regulation as "necessitated by the nature of defendant's business":

This Court will not sanction a holding that would require defendant to continue service to a dwelling, even though the present account has a large overdue balance, just because a request is made by another member of that dwelling to put the account in his or her name. Such a holding would render the defendant powerless to collect its due and bind it into providing continuous utilities service without compensation, other than the minimal deposit made by the new applicant. If this Court were to rule as plaintiff urges and strike down defendant's section 4(b), every member of every household would be permitted to take a swing at the power company, amassing a substantial bill at the price of a small deposit. ...

Plaintiff asks the Court to disregard totally the most important fact of this lawsuit. That fact is that she and other applicants in her position have, at the time of application, received [**11] the benefit of defendant's services without compensation to the defendant. If this Court were to find defendant's section 4(b) unlawful, defendant would be left with little hope of resolving [*569] its outstanding accounts out of court. No longer could it use the denial of future service to those who apply and who are indebted to the defendant for past consumption as a means of insuring payment of its accounts. Defendant would have no recourse for collection except the courts, because the threat of termination would become meaningless...

The provision of defendant's General Terms and Conditions that plaintiff seeks to have set aside expressly enacts the following regulation of the state's Public Service Commission:

No electrical utility shall be required to furnish its service or continue its service to any applicant who, at the time of such application, is indebted, or any member of his household is indebted, under an undisputed bill to such electrical utility for service, previously furnished such applicant, or furnished any other member of the applicant's household or business. R103-342(k) S.C. Code (1976).

It is undisputed that the plaintiff resided in her Springlake Road home and used defendant's services during her separation from her husband. When she requested the account to her home be put in her name in September, 1975, she was indebted to defendant, and the above regulation directed and fully warranted defendant's refusal to open a new account in her name.

The main question, then, is whether Mrs. Weaver was a member of the household during the period when the debt was incurred, and the information below leaves no doubt that not only was she a member of the household, but in fact it was *her household*:

- First, during the five-year period over which the debt was incurred (1996-2001) Mrs. Weaver owned the house and property, solely and outright. In fact, Mr. Weaver stated to the Public Service Commission in November 2001 that he owns no personal property at all; the couple's assets (at least as of then) were all in Mrs. Weaver's name.
- Second, not only was Mrs. Weaver a member of the household during that five-year period, she was for much of the time the sole occupant, and thus enjoyed 100% of the benefits of the electric service during the time the debt was incurred. Gary Weaver testified before the Public Service Commission that during those years his business dealings took him out of the country for months at a time and that Mrs. Weaver stayed home and took care of the house and property.
- Mrs. Weaver accepted the burden of paying the electric bills. During Mr. Weaver's overseas sojourns the electric bills came to the Harllees Bridge address. Although they were addressed to Mr. Weaver, Mrs. Weaver opened them and paid them, using funds drawn on the account of Renaissance International, Inc., either in the form of checks or by her authorizing PEC to draft Renaissance's bank account.
- Mrs. Weaver handled all matters related to the electric service account with PEC (then called Carolina Power & Light Company, or CP&L) during the period in question. Our records show that Mrs. Weaver called PEC some forty-five times during that period, for a multitude of reasons: to establish heat pump loans with CP&L, to lease surge suppression equipment from CP&L, to have CP&L install five area lights on her property, to negotiate equal payment plan billing, to dispute the amounts of numerous bills, to make payment arrangements to avoid disconnection, and so on.

In short, the account was for all intents and purposes Mrs. Weaver's. Given the fact that she had financial control of the household during that five-year period, and was clearly making the day-to-day decisions on when and whether to pay the electric bills, Mrs. Weaver appears to bear the main responsibility for allowing the account to fall into such arrears. This leads to the issue of Mrs. Weaver's "unclean hands." Under this principle of equity, Mrs. Weaver cannot enjoy the benefit of the electricity provided to her residence, participate in the incurrence of the debt and then attempt to avoid responsibility by asserting that it is her husband's debt.

In addition, South Carolina's common law doctrine of necessities has been broadened by case law over the years to allow for either spouse to be held responsible for debts for necessities incurred by the other. *Peebles v. Disher*, 310 S.E. (2d) 823 (S.C. App. 1983); *Lee v. Lee*, 237 S.C. 532, 118 S.E. (2d) 171 (1961); *Campbell v. Campbell*, 200 S.C. 67, 20 S.E. (2d) 237 (1942); *Hiott v. Contracting Services*, 276 S.C. 632, 281 S.E. (2d) 224 (1981). Thus, an additional basis for Mrs. Weaver's liability for the account is the fact that electricity is a necessity. She and her husband consumed this necessity and they both are responsible for payment for this necessity.

As you may know, after the Public Service Commission decided in PEC's favor in a protracted complaint proceeding brought by Gary Weaver, PEC disconnected service to the house in December 2001 for non-pay. It has remained off ever since. Prior to her latest proposal to convert the house into a wellness retreat ("Be My Guest" LLC), Mrs. Weaver tried to get PEC to reconnect the service without paying the debt. In 2002, for instance, she founded a non-profit religious organization called St. Elizabeth of the Roses Benevolent Society, Inc., which was to be headquartered at the Harllees Bridge Road estate, and used a Ms. Dorothy Roscinsky, Corporate Treasurer of the society, to initiate contacts with PEC.

Finally, Mr. Weaver still maintains electric service in his name to an office/cottage behind the main house on the Harllees Bridge Road property, and whenever our meter readers and other personnel visit the property, he is typically there.

I am sending you this fairly lengthy but not exhaustive history of the electric service situation for Mrs. Weaver so that you will understand PEC's steadfast refusal to reconnect service to Mrs. Weaver's residence until this debt is paid and you will understand that there is no legal or equitable basis for Mrs. Weaver to institute litigation.

Sincerely,



Len S. Anthony
Deputy General Counsel – Regulatory Affairs

LSA:gac

cc: David Butler, SCPSC

Attachment

"BE MY GUEST" WELLNESS RETREAT
RENAISSANCE ESTATE
BEA WALLENSTEIN DIRECTOR
1253 Harlees Bridge Rd - A
Dillon, SC 29536

BE.551

APRIL 11/04

67-776/532
BRANCH 18163

Date

Pay to the
Order of

PROGRESS ENERGY

\$100.00

X ONE-HUNDRED X

Dollars



Security
Features
Details on
Back



WACHOVIA

Wachovia Bank, N.A.
wachovia.com

For

DEPOSIT TO OPEN ACCT.

Bea Wallenstein

⑆053207766⑆1010025450365⑆055⑆